



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,837	06/25/2001	Anand V. Gumaste	MICRODOSE 00.01	9414
27667	7590	07/14/2005		
HAYES, SOLOWAY P.C. 130 W. CUSHING STREET TUCSON, AZ 85701			EXAMINER PATEL, NIHIR B	
			ART UNIT 3743	PAPER NUMBER
DATE MAILED: 07/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/888,837		GUMASTE, ANAND V.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Nihir Patel		3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on May 6<sup>th</sup>, 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 8-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

Art Unit: 3743

### DETAILED ACTION

In view of the appeal brief filed on May 6<sup>th</sup>, 2005, PROSECUTION IS HEREBY REOPENED.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **1, 3, 8 and 13 through 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Abrams et al. (US 5,694,920) in view of Casper et al. (US 6,209,538).

**Referring to claims 1, 3, 8 and 13 through 15**, Abrams discloses the application's invention as claimed with the exception of providing a coil tape that is flexible. Casper discloses a dry powder medicament inhalator having an inhalation-activated flow diverting means for triggering delivery of medicament that does provide a coil tape that is flexible (**see column 5 lines 1-15**). Therefore it would have been obvious to modify Abrams invention by providing a coil tape that is flexible as taught by Casper in order to make the delivery process more smother.

The examiner has reviewed the specification and has found that the applicant has not established any criticality on why the tape must be flexible and therefore considers it design choice.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abrams et al. (U.S. 5,694,920) in view of Pera (U.S. 5,944,012).

**Referring to claim 9**, Abrams discloses the applicant's invention as claimed with the exception of stating that the material comprises a vitamin.

Pera discloses a method for dispensing antioxidant vitamin by inhalation background of the invention that does state that the material comprises a vitamin. Therefore it would be obvious to modify Abrams's invention by stating that the material comprises a vitamin as taught by Pera so that one knows the limitations of the invention.

Claims **10 and 11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Abrams et al. (U.S. 5,694,920) in view of Hendricks (U.S. 5,699,789).

**Referring to claims 10 and 11**, Abrams discloses the applicant's invention as claimed with the exception of stating that the material comprises a hormone or a steroid.

Hendricks discloses a dry powder inhaler that does state that the material comprises a hormone or a steroid. Therefore it would be obvious to modify Abrams's invention by stating that the material comprises a hormone or a steroid as taught by Hendricks so that one knows the limitations of the invention.

Claim **12** is rejected under 35 U.S.C. 103(a) as being unpatentable over Abrams et al. (U.S. 6,029,663) in view of Shyjan (U.S. 6,312,909).

**Referring to claim 12**, Abrams discloses the applicant's invention as claimed with the exception of stating that the material comprises a bioactive material.

Shyjan discloses a compositions and methods for the diagnosis prevention and treatment of tumor progression that does state that the material comprises a bioactive material. Therefore it would be obvious to modify Abrams's invention by stating that the material comprises a bioactive material as taught by Shyjan so that one knows the limitations of the invention.

Art Unit: 3743

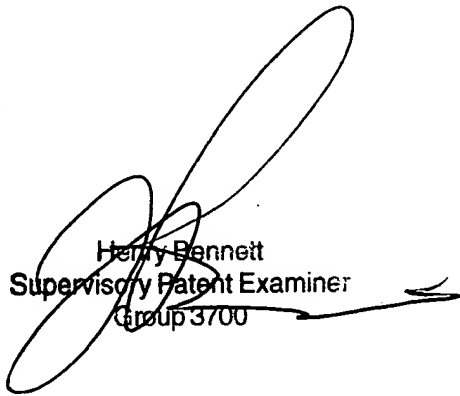
The examiner has reviewed the applicant's specification has discovered that the applicant has not established any criticality on the type of material that is stored in the blister pack and therefore came to a conclusion that the material can be a vitamin, hormone, steroid, bioactive material or any other necessary material that is need to cure a patient.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful the examiner supervisor Henry Bennett can be reached at (571) 272 4791.

NP  
July 11<sup>th</sup>, 2005

  
Henry Bennett  
Supervisory Patent Examiner  
Group 3700